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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/481,053	01/11/2000	Michael Glover	002114P006	5107

7590 10/28/2003

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EXAMINER

PEESO, THOMAS R

ART UNIT	PAPER NUMBER
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2132

DATE MAILED: 10/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/481,053

Applicant(s)

GLOVER, MICHAEL

Examiner

Thomas R. Peeso

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,7-16,19-22,26 and 28 is/are rejected.
- 7) ☒ Claim(s) 3,5,6,17,18,23-25 and 27 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 January 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

Claim 18 in the originally numbered claims in this application is missing. Therefore, the examiner has renumbered the claims from 1-28.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 2, 4, 7, 9, 13, 15, 16, 19, 21, 22 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by U.S. Patent No. 5,918,008 to Togawa et al.

As per claims 1 and 13, Togawa et al. disclose these features (see at least the abstract).

As per claims 2, 4, 7, 16 and 22, Togawa et al. disclose this limitation (col. 10, lines 44-49).

As per claims 9, 15 and 21, Togawa et al. show these features (see abstract).

As per claim 19, Togawa et al. display these limitations (see at least the abstract).

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 10-12, 14, 20, 26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Togawa et al. in view of the examiner taking official notice.

As per claims 8, 14 and 20, Togawa et al. do not specifically disclose these limitations. The examiner, however, takes official notice that these limitations are well known in the art. It would have been obvious to anyone having an ordinary level of skill in the art at the time the invention was made to have modified the system of Togawa et al. to include these features since they comprise well known elements in such a system.

As per claims 10-12, the scanning of a data structure is well known in the art involving anti-virus routines.

As per claims 26 and 28, Togawa et al. do not specifically show these features. It would have been obvious to anyone having an ordinary level of skill in the art at the time the invention

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was made to have included these features in the system of Togawa et al. since it would make sense that a file would need some sort of identifier and a place to store it.

Allowable Subject Matter

Claims 3, 5, 6, 17, 18, 23, 24, 25, 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,359,659 to Rosenthal discloses Method for Securing Software Against Corruption by Computer Viruses.

U.S. Patent No. 5,440,723 to Arnold et al. discloses Automatic Immune System for Computers and Computer Networks.

U.S. Patent No. 5,964,889 to Nachenberg discloses Method to Analyze a Program for Presence of Computer Viruses by Examining the Opcode for Faults Before Emulating Instruction in Emulator.

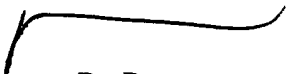
U.S. Patent No. 5,999,723 to Nachenberg discloses State-Based Cache for Antivirus Software.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas R. Peeso whose telephone number is 703 305-9784. The examiner can normally be reached on Mon.-Thur, 7:00 to 4:30 and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron, can be reached on 703 305-1830. The fax phone numbers for the organization where this application or proceeding is assigned are 703 746-7239 for official communications, 703 746-7240 for unofficial communications and 703 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 305-3900.



Thomas R. Peeso
Primary Examiner
Art Unit 2132

October 13, 2003